1946

File No. O Hindu Law/46

A BRANCH

Subject:— Opinions under Hindu Law

File No. O Hindu Law/46

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C O N T E N T S

Legal Department File No. O. Hindu Law/1946.

Sr. No.	M.I./O.No.	Subject	Pages
	O.Hindu Law 1946	Opinions under Hindu Law.	
1.	6896 11-10-46	Request of Mr.R.V. Gangolli a pleader of Karwar to undertake legislation applying to Kanara the Bombay School of Hindu Law.	1-3

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For administrative reasons, North Kanara was separated from the Madras Presidency and transferred to the Bombay Presidency since the year 1801. Since then upto the year 1935, the law ~~uniform~~ uniformaly applied to the Hindus in North Kanara was the Bombay School of Hindu Law. In Raja Somasekar V. Raja Sugutar the Madras High Court (see 53 Mad 297) decided that the mere transfer of North Kanara District to the Bombay Presidency for administrative purposes would not be sufficient to affect the personal law of the residents in North Kanara unless and until it was shown in the case of any resident that he had intended to change and had in fact changed his personal law. This decision was affirmed by the P.C. in 38 Bom. L.R. p. 317. Following the said Privy Council decision in Dattatraya V. Laxman (44 Bom. L.R. 527) - Broomfield observed thus--

> "Hindus in North Kanara are presumed to be governed by the Hindu Law prevailing in the Madras Presidency, unless the contrary is shown . That is clear from Somasekar V. Mahadeva (I.L.R. 53 Mad 297) which was affirmed by the P.C. in Somasekar Royal V. Sugutar Royal (38 Bom. L.R. 317) etc. "

In view of these decisions, one Mr. R.V. Gangolli, a pleader of Karwar, in his application to the Minister for Law requests that Government should undertake legislation applying to Kanara the Bombay School of Hindu Law. In his remarks the D.J. Kanara supports the applicant and considers that in order to restore to the

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people the position which prevailed in Kanara for 75 years before the Privy Council decision in 38 Bom. L.R. 317 was prounounced, an enactment applying the Bombay School of Hindu Law to the people of North Kanara District is an abosolute necessity.

In the H.D. office note dated 21-9-45, however, it is stated thus --

"What the Privy Council decision has done is to restore the position as it was in 1861. The tables will again be turned if the legislation suggested is undertaken.. The only valid ground for the proposed change is that Bombay School Law was applicable to the District from 1861 to 1935. The legislation if undertaken will surely adversely affect the interests of one set of parties to the benefit of the other set of parties, and the Bill if introduced as a Government Bill will prove highly contravertial. Besides there does not appear to be any public ~~exitt~~ agitation for such a change . On the whole, therefore, there seems to be no case for undertaking legislation of the type suggested, and this does not appear to be a suitable subject for Government to legislate."

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Office of the R.L.A.

The view taken by the Home Department is correct. To meet the object in view legislation i will be highly retrospective; but such legislation will be highly controversial as it will prejudicially affect vested rights of some Hindus in Kanara district.

S.L.Chaudhary
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O.C. For Remembrancer of Legal Affairs..

U.O.L. to H.D.No. 6896. dated the 11th October 1946.

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